

Mail Stop Interference  
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Paper 1

Filed January 11, 2011

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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VINCENZO SCARLATO,  
VEGA MASIGNANI, RINO RAPPUOLI,  
MARIAGRAZIA PIZZA, and  
GUIDO GRANDI,

Junior Party  
(Patent 7,714,121),

v.

IAN RICHARD ANSELM PEAK,  
MICHAEL PAUL JENNINGS,  
and E. RICHARD MOXON,

Senior Party  
(Application 12/841,457)

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Patent Interference No. 105,791  
(Technology Center 1600)

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DECLARATION - Bd.R. 203(b)<sup>1</sup>

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<sup>1</sup> "Bd.R. x" may be used as shorthand for "37 C.F.R. 41.x." 69 Fed. Reg. 49960, 49961 (12 Aug. 2004).

#### Part A. Declaration of interference

An interference is declared (35 U.S.C. § 135(a)) between the above-identified parties. Details of the application(s), patent (if any), reissue application (if any), count(s) and claims designated as corresponding or as not corresponding to the count(s) appear in Parts E and F of this DECLARATION.

#### Part B. Judge managing the interference

Administrative Patent Judge Sally Gardner Lane has been designated to manage the interference. Bd. R. 104(a).

#### Part C. Standing order

A Trial Section STANDING ORDER [SO] (Paper 2) accompanies this DECLARATION. The STANDING ORDER applies to this interference.

#### Part D. Initial conference call

A telephone conference call to discuss the interference is set for 2 March 2011 at 2:00 p.m. (the Board will initiate the call).

No later than four business days prior to the conference call, each party shall file and serve (SO ¶¶ 10.1 & 105) a list of the motions (Bd. R. 120; Bd. R. 204; SO ¶¶ 104.2.1, 120 & 204) the party intends to file.

A sample schedule for taking action during the motion phase appears as Form 2 in the STANDING ORDER. Counsel are encouraged to discuss the schedule prior to the conference call and to agree on dates for taking action. A typical motion period lasts approximately eight (8) months. Counsel should be prepared to justify any request for a shorter or longer period.

Part E. Identification and order of the parties

Junior Party

Named inventors: VINCENZO SCARLATO,  
VEGA MASIGNANI,  
RINO RAPPUOLI,  
MARIAGRAZIA PIZZA, AND  
GUIDO GRANDI,  
EACH OF SIENA, ITALY

Involved Patent: 7,714,121, issued on 11 May 2010 from application  
10/695,499 filed 28 October 2003

Title: MENINGOCOCCAL ANTIGENS

Assignee: Novartis AG

Senior Party

Named Inventors: IAN RICHARD ANSELM PEAK, ST. LUCIA, AUSTRALIA;  
MICHAEL PAUL JENNINGS, CARINA, AUSTRALIA;  
E. RICHARD MOXON, OXFORDSHIRE, UNITED KINGDOM

Involved Application: 12/841,457 filed 22 July 2010

Title: NOVEL SURFACE ANTIGEN

Assignee: The University of Queensland

The senior party is assigned exhibit numbers 1001-1999. The junior party is assigned exhibit numbers 2001-2999. Bd. R. 154(c)(1); SO ¶ 154.2.1. The senior party is responsible for initiating settlement discussions. SO ¶ 126.1.

#### Part F. Count and claims of the parties

##### Count 1

An isolated nucleic acid molecule that encodes a protein comprising the amino acid sequence of SEQ ID NO: 4 of Scarlato or SEQ ID NO: 21 of Peak.

The claims of the parties are:

Scarlato: 1-8

Peak: 35-42

The claims of the parties which correspond to Count 1 are:

Scarlato: 1 and 3-8

Peak: 35 and 37-42

The claims of the parties which do not correspond to Count 1, and therefore are not involved in the interference, are:

Scarlato: 2

Peak: 36

The parties are accorded the following benefit for Count 1:

Scarlato: US 09/302,626 filed 30 April 1999, now patent 6,709,660  
issued 23 March 2004

PCT/IB99/00103 filed 14 January 1999

UNITED KINGDOM 9800760.2 filed 14 January 1998

UNITED KINGDOM 9819015.0 filed 1 September 1998

UNITED KINGDOM 9822143.5 filed 9 October 1998

Peak: US 11/776,709 filed 12 July 2007

US 10/637,659 filed 11 August 2003

US 09/797,862 filed 5 March 2001, now patent 6,607,729 issued  
19 August 2003

US 09/377,155 filed 19 August 1999, now patent 6,197,312 issued  
6 March 2001

PCT/AU98/01031 filed 14 December 1998

UNITED KINGDOM 9726398.2 filed 12 December 1997

Part G. Heading to be used on papers

The following heading must be used on all papers filed in this interference, see  
SO ¶ 106.1.1:

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Part H. Order form for requesting file copies

When requesting copies of files, use of SO Form 4 will greatly expedite processing of the request. Please attach a copy of Parts E and F of this DECLARATION with a hand-drawn circle around the patents and applications for which a copy of a file wrapper is requested.

/Sally Gardner Lane/  
Administrative Patent Judge

Enc:

Copy of STANDING ORDER  
Form PTO-850  
Copy of Scarlato patent claims  
Copy of Peak application claims

Revised 3 January 2006

cc (via overnight delivery):

Attorney for Scarlato:

NOVARTIS VACCINES AND DIAGNOSTICS INC.  
INTELLECTUAL PROPERTY- X100B  
P.O. Box 8097  
Emeryville, CA 94662-8097

Attorney for Peak:

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Washington DC 20005-3960